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DISTRICT OF UTAH  
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**IN THE UNITED STATES DISTRICT COURT, CENTRAL DIVISION  
DISTRICT OF UTAH**

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UNITED STATES OF AMERICA,  
  
Plaintiff,

vs.

AUGUSTUS CARTER,  
  
Defendant.

**MOTION TO CONTINUE**  
18 U.S.C. § 3161(h)(8)(A)

Case No. 2:02 CR 0390 DAK  
  
Honorable Dale A. Kimball

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Defendant, Augustus Carter, through counsel, Earl Xaiz, hereby moves this Court to continue the trial in this matter. This motion is based on the fact that defense counsel require additional time to interview several potential witnesses. Counsel submits, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), that failure to grant a continuance of said trial would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Counsel further submits that the period of time involved in a continuance is excludable from the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(8)(A) based on the fact

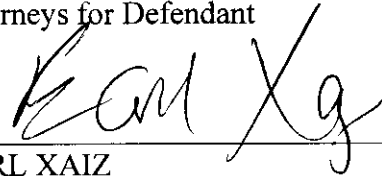
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that the ends of justice served by granting the continuance outweigh the best interest of the public and the defendants in a speedy trial.

John W. Huber, Assistant United States Attorney, has telephonically stipulated to the continuance on the grounds as set forth herein.

RESPECTFULLY SUBMITTED this 18 day of December, 2002.

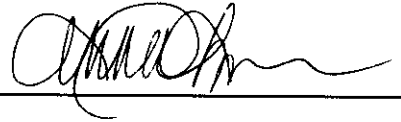
YENGICH, RICH & XAIZ  
Attorneys for Defendant

A handwritten signature in black ink, appearing to read "Earl Xaiz", written over a horizontal line.

EARL XAIZ  
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing Motion to Continue 18 U.S.C. § 3161(h)(8)(A), on the case styled *United States of America v. Augustus Carter*, postage prepaid, this 18 day of December, 2002, to John W. Huber, Assistant United States Attorney, located at the United States Attorney's Office, 185 S. State St., #400, Salt Lake City, Utah 84111.



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**IN THE UNITED STATES DISTRICT COURT, CENTRAL DIVISION  
DISTRICT OF UTAH**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

AUGUSTUS CARTER,

Defendant.

**ORDER OF CONTINUANCE  
18 U.S.C. § 3161(h)(8)(A)**

Case No. 2:02 CR 0390 DAK

Honorable Dale A. Kimball

The Court, based on motion of counsel, hereby orders that trial in this matter be continued. The Court specifically finds that the ends of justice served by continuing this matter outweigh the best interest of the public and the defendant in a speedy trial. In addition, the Court hereby determines that the period of delay caused by a continuance is excludable in computing the time within which the trial in this matter must commence pursuant to 18 U.S.C. § 3161.

The Order of Continuance, which is based on the specific factor delineated in 18 U.S.C. § 3161(h)(8)(B)(iv), is ordered because failure to grant a continuance in this case would deny the defendant and his counsel the reasonable time necessary for effective preparation, taking

into account the exercise of due diligence. Since defense counsel requests additional time because of scheduling conflicts, the Court finds that due diligence has been exercised in this matter by all parties.

Therefore, it is hereby ordered that the trial in this matter, currently set for the 6<sup>th</sup> day of January, 2003, be continued and that a new trial be set to commence on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, at the hour of \_\_\_\_:\_\_\_\_ a.m./p.m.

SIGNED BY MY HAND this \_\_\_\_\_ day of December, 2002.

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DALE A. KIMBALL  
United States District Court Judge